Appeal No. 21-55852

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IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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LITTLE ORBIT, LLC
Plaintiff – Appellant,

vs.

DESCENDENT STUDIOS INC. and ERIC PETERSON,
Defendants – Appellees

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On Appeal from the United States District Court for the Central District of California
Civil Action No. 8:20-cv-00089-DOC-JDE, Hon. David O. Carter, Judge

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DECLARATION OF M. DANTON RICHARDSON IN SUPPORT OF APPELLANT'S EMERGENCY MOTION UNDER CIRCUIT RULE 27-3 FOR STAY OF ORDER PENDING APPEAL

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M. DANTON RICHARDSON (State Bar No. 141709)
mdantonrichardson@yahoo.com
LAW OFFICES OF M. DANTON RICHARDSON
131 N. El Molino Ave., Suite 310
Pasadena, CA 91101
Telephone: (949) 677-6434
Attorneys for Plaintiff/Appellant, LITTLE ORBIT LLC

DECLARATION OF M. DANTON RICHARDSON

I, M. Danton Richardson, declare:

1.   I am an attorney licensed to practice law in California and before this Court and I am the attorney of record for Plaintiff/Appellant Little Orbit LLC in this matter. The facts stated herein are within my own personal knowledge unless otherwise stated. If called to testify, I would and could testify competently to the facts stated in this declaration.

2.   I make this declaration in support of APPELLANT'S EMERGENCY MOTION UNDER CIRCUIT RULE 27-3 FOR STAY OF ORDER PENDING APPEAL.

3.   On August 9, 2021, I received an email from Defendants' counsel stating: "Descendent will be terminating the BSTS and the IP license contained therein for material breach based on Little Orbit not complying with the Court order." Attached hereto and incorporated herein as Exhibit A is a true and correct copy of the foregoing August 9, 2021, email I received from Mr. Whitticar.

4.   I met and conferred with Defendants' counsel, Michael Whitticar, via telephone conference on August 10, 2021, regarding Defendants' threat to terminate the BSTS and pointed out that such Order was under appeal. I asked Mr. Whitticar if Defendants would stipulate to staying the Order and all times under the BSTS pending the outcome of the appeal. Mr. Whitticar advised Defendants would not agree to staying this matter and demanded payment from Little Orbit or Defendants would seek to enforce the Order. I advised Mr. Whitticar that Little Orbit would therefore have to seek an emergency stay of the Court's order and the BSTS pending the outcome of the appeal. Mr. Whitticar confirmed that Defendants would oppose such Motion.

5.   On June 23, 2021, I followed up on the parties then on-going discussions with Mr. Whitticar via email and made a proposal as follows:

> I will make one final proposal to try to clear the way for the parties to try to resolve their current differences either between themselves or with the aid of another session with Judge Early - I would propose that LO deposit the amount of the first required payment - $50,000 - to my trust account and that your side agree to put a hold on the deadline for that payment while we try to work things out. If you truly want to explore resolution this should be easily agreeable.

A true and correct copy of the foregoing email is attached as Exhibit B. I never received any response from Mr. Whitticar.

6.   Little Orbit was prepared to make the offered deposit as offered in my email of June 23, 2021. Since the filing of this appeal, Little Orbit has deposited $250,000 into my trust account as proof of funds.

I declare the foregoing to be true and correct under penalty of perjury under the laws of the United States. Executed on August 24, 2021, in San Gabriel, California.

/s/ M. Danton Richardson
M. Danton Richardson, Declarant

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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2021, I electronically filed the foregoing document with the Clerk of the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. Counsel in this case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

/s/ M. Danton Richardson
M. Danton Richardson
Attorney for Plaintiff/Appellant
Little Orbit LLC